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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

NATIONAL FAIR HOUSING ALLIANCE, *et*  
*al.*,  
  
Plaintiffs,  
  
v.  
  
MARCIA L. FUDGE, *et al.*,  
Defendants.

Case No. 4:20-cv-07388-JSW  
ORDER GRANTING  
~~JOINT STATUS REPORT AND~~  
REQUEST TO CONTINUE STAY

In accordance with this Court's January 7, 2022, Order, ECF No. 74, the parties through their undersigned counsel of record file this status report and state the following:

1. In this lawsuit, Plaintiffs challenge Defendants' issuance of a final rule, *HUD's Implementation of the Fair Housing Act's Disparate Treatment Standard*, 85 Fed. Reg. 60288 (Sept. 24, 2020) ("2020 Rule"), under the Administrative Procedure Act, 5 U.S.C. §§ 701 *et seq.* See Compl., ECF No. 1.
2. On October 25, 2020, the United States District Court for the District of Massachusetts stayed the effective date of the 2020 Rule. *Mass. Fair Hous. Ctr. v. United States Dep't of Hous. & Urban Dev.*, No. CV 20-11765-MGM, 2020 WL 6390143 (D. Mass. Oct. 25, 2020). On December 23, 2020, the Defendants filed a Notice of Appeal of that decision; however, on February 9, 2021, Defendants filed a motion to voluntarily dismiss their appeal and do not seek to lift the stay in the Massachusetts court during the pendency of that case.
3. On January 26, 2021, President Biden issued a Presidential Memorandum that instructed that HUD
 

shall also, as soon as practicable, take all steps necessary to examine the effects of the September 24, 2020, rule entitled "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard" (codified at part 100 of title 24, Code of Federal Regulations), including the effect that amending the February 15, 2013, rule entitled "Implementation of the Fair Housing Act's Discriminatory Effects Standard" has had on HUD's statutory duty to ensure compliance with the Fair Housing Act. Based on that examination, the Secretary shall take any necessary steps, as appropriate and consistent with applicable law, to implement the Fair Housing Act's requirements that HUD administer its programs in a manner that affirmatively furthers fair housing and HUD's overall duty to administer the Act (42 U.S.C. 3608(a)) including by preventing practices with an unjustified discriminatory effect.

Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, 86 FR 7487 (published Jan. 29, 2021).
4. In accordance with to the President's directive, HUD began actively examining the discriminatory effects rules.
5. On June 25, 2021, HUD published a Notice of Proposed Rulemaking proposing to recodify the 2013 Discriminatory Effects Rule and soliciting comments. HUD, Reinstatement of HUD's Discriminatory Effects Standard, 86 Fed. Reg. 33,590 (Jun. 25, 2021). HUD

announced a 60-day comment period, *id.*, which concluded on August 24, 2021. The agency is still in the process of reviewing the more than 10,000 comments received.

6. In light of HUD's action with respect to the rule at issue in this case and to allow for the continuation of the inter-agency review process, the parties respectfully request a continuation of the stay in this case for 90 days, until July 11, 2022. The parties propose to file another status report on July 6, 2022, updating the Court on the status of the proposed rule and proposing any next steps as appropriate.

Dated: April 4, 2022

Respectfully submitted,

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~~PROPOSED~~ ORDER

PURSUANT TO THE PARTIES' JOINT REQUEST, and for good cause shown, this case is stayed for 90 days. The parties are ORDERED to file a joint status report on July 6, 2022.

IT IS SO ORDERED.

Dated: April 5, 2022

  
JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE